

1
2
3
4
5
6
7
8
9 UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 AMERICAN FEDERATION OF
13 GOVERNMENT EMPLOYEES, AFL-CIO, et
14 al.,

15 Plaintiffs,

16 v.

17 DONALD J. TRUMP, in his official capacity
18 as President of the United States, et al.,

19 Defendants
20
21
22
23
24
25
26
27
28

Case No. 3:25-cv-03698-SI

**[PROPOSED] ORDER GRANTING
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE WHY A
PRELIMINARY INJUNCTION SHOULD
NOT ISSUE**

1 Plaintiffs’ application for a temporary restraining order (“TRO”) and order to show cause why
 2 a preliminary injunction should not issue came before this Court for consideration on

3 _____, 2025. Upon consideration, and for good cause shown, IT IS
 4 HEREBY ORDERED that the TRO application is GRANTED.

5 The Court finds that Plaintiffs have demonstrated a likelihood of success on the merits of their
 6 claims, a likelihood of irreparable harm in the absence of temporary relief, that the balance of equities
 7 tips in their favor, and that a temporary restraining order is in the public interest. In support of this
 8 Order, the Court makes the following findings:

- 9 • On February 11, 2025, President Trump issued his Workforce Executive Order No. 14210 to
 10 “commence a critical transformation of the Federal bureaucracy” and directed all federal
 11 agencies to “eliminat[e] waste, bloat, and insularity” by immediately engaging in mandatory
 12 “large-scale reductions-in-force (RIFs)” in furtherance of “reorganization” of the government.
 13 *See* 90 Fed. Reg. 9669 (Feb. 11, 2025). Among other things, the Executive Order also directs
 14 federal agencies to eliminate all “agency initiatives, components, or operations that my
 15 Administration suspends or closes.” *Id.*
- 16 • The Plaintiffs are likely to prevail on their claim that the Executive Order is *ultra vires* and
 17 exceeds President Trump’s authority; that no provision of the Constitution grants the President
 18 the power to order federal agencies to engage in large-scale reductions in force, to reorganize
 19 or eliminate the various departments between and within agencies, or to otherwise restructure
 20 the federal government; and that Congress has not delegated to the President the authority to
 21 do so by statute.
- 22 • On February 26, 2025, Defendants Office of Management and Budget (“OMB”) and Office of
 23 Personnel Management (“OPM”) issued a Memorandum to all federal agencies directing
 24 compliance with the Executive Order. *See* OMB/OPM Memorandum re: Guidance on
 25 Agency RIF and Reorganization Plans Requested by Implementing The President’s
 26 “Department of Government Efficiency” Workforce Optimization Initiative (Feb. 26, 2025).
 27 The Memorandum requires agencies to submit to OMB and OPM for approval under
 28

unreasonable timeframes, and to implement according to specific instructions and requirements, Agency RIF and Reorganization Plans (“ARRPs”) for large-scale RIFs and closure of agency programs. *See id.* Defendant Department of Government Efficiency (“DOGE”) is imposing and enforcing directives to agencies to cut staff, programs, and offices in furtherance of the Executive Order and as part of these ARRs.

- Plaintiffs are likely to prevail on their claims that the actions by OPM, OMB, and DOGE implementing Executive Order 14210 exceed those agencies’ authority and are ultra vires; and that OPM’s, OMB’s, and DOGE’s actions also violate the Administrative Procedure Act (“APA”) because they exceed authority; are arbitrary and capricious; and OPM and OMB failed to comply with notice-and-comment rulemaking.
- Defendants AmeriCorps, Department of Agriculture, Department of Commerce, Department of Energy, Environmental Protection Agency, General Services Agency, Department of Health and Human Services, Department of Housing and Urban Development, Department of Interior, Department of Labor, National Labor Relations Board, National Science Foundation, Small Business Association, Social Security Administration, Department of State, Department of Treasury, and Department of Veteran Affairs and their agency heads named in their official capacities as Defendants in this lawsuit (“Federal Agency Defendants”) are implementing the Executive Order pursuant to OMB and OPM’s Memorandum, including through ongoing and imminent RIFs.
- Plaintiffs are likely to succeed on their claims that Federal Agency Defendants’ implementation of Executive Order 14210 is arbitrary and capricious, because by relying on the President’s, OPM and OMB’s, and DOGE’s orders to execute large-scale RIFs, including by dismantling agency programs, offices, and functions, the agencies have failed to consider important aspects of the problem and all relevant factors, failed to provide any reasoned explanation for their action, reversed position without explanation, and otherwise failed to engage in reasoned decision-making.

- Plaintiffs have demonstrated that Defendants' challenged actions have caused and will continue to cause irreparable injury in the form of, *inter alia*, violation of constitutional separation of powers mandates; harm to federal, state, local, and private employees who are members of and/or represented by Plaintiffs, including the imminent loss of jobs and employer-provided health insurance coverage; adverse impacts on the members of plaintiff non-profit organizations, cities, and counties due to the loss of government services on which they rely; injury to the labor unions and other plaintiff organizations that have been forced to divert resources to aid their members and obtain information in the face of many Defendant Agencies' lack of transparency as to current plans for RIFs; and deprivation of all Plaintiffs' opportunity to provide comments through notice-and-comment rulemaking.
- The balance of equities and public interest favor injunctive relief, particularly in light of the imminent harm to government services caused by impending terminations of tens of thousands of federal employees.

This Court has subject matter jurisdiction to hear Plaintiffs' claims, including because Plaintiffs have demonstrated Article III standing and because Congress has not required that Plaintiffs' claims be initially adjudicated by any administrative agency prior to this Court's exercise of jurisdiction pursuant to 28 U.S.C. §1331.

Accordingly, pursuant to this Court's authority including but not limited to authority to "issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights" (5 U.S.C. §705), IT IS HEREBY ORDERED that, pending an order by this Court as to whether a preliminary injunction should issue, OMB, OPM, and Federal Defendant Agencies identified above; their officers, agents, servants, employees, and attorneys; and all persons acting by, through, under, or in concert with these Defendants (referred to collectively hereinafter as "TRO Defendants") are hereby enjoined and/or stayed from taking any actions to implement or enforce Executive Order 14210 or the OMB/OPM Memorandum, including but not limited to:

- (1) any further approval of ARRs by OMB and OPM;
- (2) any further orders by DOGE to agencies to cut programs or staff in conjunction with

1 implementing the Executive Order, the OMB/OPM Memorandum, or the ARRP's;

2 (3) any further implementation of the Executive Order, the OMB/OPM Memorandum, or
 3 ARRP's by Federal Agency Defendants, including but not limited to execution of any existing RIF
 4 notices, issuance of any further RIF notices, and placement of employees on administrative leave;
 5 and

6 (4) any further transfer of functions or programs between any Federal Agency Defendants in
 7 conjunction with implementing the Executive Order, the OMB/OPM Memorandum, or the ARRP's.

8 IT IS FURTHER ORDERED that, good cause having been shown pursuant to Federal Rule of
 9 Civil Procedure 26(d), OMB and OPM must provide to the Court and to Plaintiffs the current
 10 versions of all Federal Defendant Agency ARRP's within two (2) business days.

11 IT IS FURTHER ORDERED that, within two (2) business days, TRO Defendants shall serve
 12 and file a declaration(s) verifying that they have complied with this Order and detailing what steps, if
 13 any, they have taken to do so.

14 IT IS FURTHER ORDERED that Plaintiffs' moving papers for a preliminary injunction shall
 15 be filed no later than _____, 2025; opposition papers to Plaintiffs' request for a
 16 preliminary injunction shall be filed by TRO Defendants no later than _____,
 17 2025; Plaintiffs may file a reply in support of their motion for preliminary injunction no later than
 18 _____, 2025; and a hearing on Plaintiffs' request for a preliminary injunction will be held on
 19 _____, 2025 at _____.

20
 21 IT IS SO ORDERED.

22
 23 Dated: _____, 2025

 The Honorable Susan Illston
 United States District Court Judge